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ABSTRACT

To help local school officials implement the federal Education Consolidation and Improvement Act (ECIA) of 1981, this handbook offers a step-by-step walk through the new law and presents recommendations for local policies concerning the law. ECIA replaces most categorical programs under the Elementary and Secondary Education Act with block grants to states and school districts. The first section of the handbook briefly describes the historical background and existing structure of federal aid to education and presents a lengthy summary of ECIA's three chapters, covering aid to disadvantaged children, consolidation of elementary and secondary programs, and the new federal regulatory role. Section 2 provides local boards and administrators with checklists of policies needed to avoid the imposition of state and federal guidelines on ECIA programs. Sample board policies are offered on budget priorities, staff assignments, relationships with private schools and state agencies, and community involvement. The roles of state and federal officials under ECIA are also outlined. An appendix gives both the complete text of ECIA and excerpts from related laws governing block grants. (Author/RW)

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THE EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

A Manual for Local Policy Makers and Administrators

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NSBA wishes to extend its appreciation to T. Susan Hill who took NSBA's materials and wrote this handbook. T. Susan Hill has taught in public high school, served as administrative assistant and chief speechwriter for two state school superintendents and as staff assistant to a state school board, served as a federal education grants officer, and directed NSBA's department of management services for school districts. Winner of numerous writing and other performance awards, she works today as a freelance education writer and consultant.

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FOREWORD

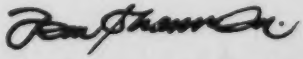
A great challenge faces school board leaders. The challenger: new federal legislation, the *Education Consolidation and Improvement Act.* This landmark law gives local policy makers tremendous flexibility to decide how they will spend federal education dollars. Enacted by Congress on July 31 and signed into law by President Ronald Reagan on August 31, 1981, the *Education Consolidation and Improvement Act* is part of the Omnibus Budget Reconciliation Act of 1981.

NSBA has worked for this long-awaited shift from overly prescriptive federal programs to local discretion for more than a decade. The act symbolizes renewed faith in the people most closely tied to each community's schools. Local officials can be most responsive to a community's schooling needs—and most accountable for schooling results.

Responding to this renewed faith with leadership and courage is the challenge that faces local school officials now.

To assist them, NSBA offers this handbook, a step-by-step walk through of the law itself—followed by an action plan to help boards and administrators develop local plans for using federal dollars to best serve their communities.

Before you turn the page, one last word: This book will raise questions. The law itself raises questions; some provisions need clarification. NSBA will continue to work closely with congressional leadership to shape answers that mesh with the overriding, original congressional intent of reinforcing local school control. Be assured, we'll keep you posted.



Thomas A. Shannon
Executive Director

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OVERVIEW

At first glance, it doesn't seem like much. The new federal Education Consolidation and Improvement Act (ECIA), after all, relates to only a small portion of the myriad school programs funded by federal dollars. Less than 20 percent of all U.S. Department of Education programs are restructured by the law, and the funds authorized for this 20 percent account for less than three percent of all public school expenditures. So why should you work through this handbook? Why make this law one of your most intimate acquaintances?

Blueprint for the Future

Three factors make ECIA (you might as well get used to that acronym now) landmark legislation.

- *A shift in school governance power and responsibility.* As part of the Omnibus Budget Reconciliaion Act, ECIA incorporates the larger law's mission of reducing federal regulation in all domestic programs. The stated purpose of ECIA, in fact, is to free both state and local school officials from the "overly prescriptive" federal regulations that have eaten up time officials might otherwise have spent on their real business, educating children. With the relinquishment of federal say-so, the reins of administrative responsibility—and accountability—shift to state and local officials. To borrow a motto: Those officials had better Be Prepared.
- *An experiment in future federal aid packages.* If local and state officials exercise their new responsibilities convincingly, chances are Congress will send more control their way. Already Capitol Hill insiders are talking about unloading the administrative burden for the remaining 80 percent of Education Department programs onto state and local shoulders.
- *A vehicle for restoring public confidence.* Making effective use of ECIA dollars will require solid planning by local school boards, to whom the law gives complete responsibility for deciding how dollars should be spent. The law offers boards the opportunity to involve the entire community in rethinking district goals. And it offers financial support for that process. These efforts may well result in a fine, well-publicized model for effective local school planning, and the result of that—who knows?—could well be renewed commitment to the nation's public schools.

The new law, then, has import for today's and tomorrow's school programs. But only potentially so.

You're the Construction Supervisor

The law is a blueprint only. Someone has to raise the edifice that will house locally managed programs.

- *Don't count on Uncle Sam.* There won't be extensive federal regulations about implementation; the law prohibits them.
- *State officials may try.* The law doesn't prohibit states from issuing regulations—even ones more stringent than those imposed by current federal legislation. *But states have not done so yet.*
- *Local officials should.* The law's blueprint for local control and flexibility will result in a strong local school governance structure *only if local boards take the initiative with state officials to ensure that state regulations embody the true legislative intent* of giving local boards the flexibility they need to manage federally funded programs effectively. Whether state officials will be responsive will undoubtedly depend on the collective ability of local boards to demonstrate their capacity to plan and operate effective programs on their own. Can your district, in other words, show that it is ready to operate federal programs *without* all those state and federal regulations?

That's where this handbook comes in.

Building the Edifice

This book is written for school policy makers and administrators. Most especially, it's for *local* school officials, but it's for education planners at all levels of government, too. After all, effective implementation of ECIA will require smooth teamwork among all players, and mutual recognition of each other's respective roles in getting the job done. Here's what the book contains for each player on the team:

- *For everyone.* Just what is this new law, and precisely how does it change the existing structure of federal/state/local relations? Read Part 1 for:
  - —A quick look at the existing structure
  - —An easy-to-follow summary of the law's main points
  - —A handy analysis of the law's impact on school governance structure.
- *For local policy makers.* Until you've got your policy house in order, you're not ready to operate those federal programs. Look in Part 2 for:
  - —a complete checklist of those policies your district should have if you want to convince state and federal officials that

you're ready to run federal programs without externally imposed guidelines
  — sample policies
  — information on where to get more sample policies
- *For administrators, all levels.* Part 2 is for you, too.

It contains a special section on:
  — what local administrators need to get started on, and where they can get more information
  — what state officials will be working on in the meantime
  — tasks to which federal officials are addressing themselves.

The appendix contains the complete wording of ECIA.

Part 1

FEDERAL FRAMEWORK FOR ACTION

Ripley might put it this way: Believe it or not, the federal government hasn't always been involved in education. Although some federal aid dates back to the 1940s, not until 1965 did federal interests seem compelling enough to warrant stepping deeply into a domain until then governed almost entirely by state and local school boards. The step taken was a giant one.

In this chapter, we look at:

- What prompted that giant step
- The nature of federal aid that resulted
- What, in 1981, prompted the passage of ECIA, which has all the markings of Giant Step 2, and replaces the 16-year-old federal aid package
- The general provisions of the new federal law
- How ECIA reshapes the federal/state/local governance structure

The First Giant Step

It was Lyndon Baines Johnson who took the first step in this one thousand mile journey. He was President in 1965, when Congress enacted the Elementary and Secondary Education Act (ESEA). Signing the law, Johnson envisioned its sweeping provisions for improving schooling as a major step along the way to his Great Society.

Until that moment, responsibility for education had been divided up this way:

- *Local school control.* Most school decisions were made locally. The strength of local control, a tradition that persists despite state and federal inroads, lay in its ability to foster the diversity of school programming that is seen as the strength of democracy.
- *State responsibility.* Local boards, as is the case today, derived their responsibility from state constitutions or laws, which set forth the state's own responsibility for overseeing a statewide system of free public schools.

- *Federal involvement.* Rarely did the federal government concern itself with supporting state or local educational programs. The Vocational Education Act, the National Defense Education Act, and Impact Aid are notable exceptions. Interpretations of the U.S. Constitution consistently found education a state's right. Only when local or state decisions competed with federal interests would the government step in.

Competing interests, in 1965, prompted the passage of ESEA. The fine intent of that legislation was to advance the cause of equal education opportunity, to send federal dollars to states and local boards that otherwise found difficulty in meeting the needs of special, "high-cost" students or funding innovative programs. Dollars also went to state education departments to fund leadership and development programs.

This history must also tell of the ample evidence that lack of funds was not the sole reason the federal government stepped in. In the mid-Sixties, the great civil rights movement shook this nation's foundations. The demand for equity, first voiced locally and then at state levels, fell on too many deaf ears. Lack of response from those levels—not just lack of funds—forced federal intervention. First, Congress passed the 1964 Civil Rights Act to guarantee all people their rights under law; the next year, with ESEA, Congress funded programs to help schools provide equal education opportunities for all.

The 1965 Federal Aid Package

Uncle Sam stepped carefully into his new education role. A skilled balancing act was needed to preserve state and local powers while encouraging and enforcing the rights of neglected segments of the population. To the credit of all who had a hand in the resultant legislation, ESEA achieved that balance admirably. It carved out these cornerstones as the foundation for future federal aid:

- *Target populations.* Federal dollars would go where they were most needed—to advance the education opportunities of those whom local boards and states neglected.
- *Supplementary funds.* The dollars would arrive with the restriction that they could not supplant local or state dollars already budgeted for basic instructional programs.
- *Categorical aid and discretionary funds.* Most dollars were to be used for specific purposes, to improve the conditions that prompted federal intervention. In addition to those categories of aid, some money was set aside for federal and state officials to award at their discretion.

• *Formula and competitive grants.* Dollars would be awarded in one of two ways: (1) Categorical programs were to operate on a formula basis, with states and local boards receiving sums calculated according to certain objective criteria, such as the number of children in low-income families; and (2) discretionary funds were sent to states, which awarded them on a competitive basis, with recipients receiving sums based on the excellence of programs they themselves devised. Discretionary programs were to receive far fewer dollars than formula programs for special, "high-cost" students.

All this worked reasonably well for a while—until the basically sound framework got cluttered.

The Second Giant Step

Sixteen years following ESEA's passage, events conspired to urge Uncle Sam to phase out his education business. Legislation repealing most of ESEA is now law. Though its successor (ECIA—remember that acronym?) retains many of the original law's principles, there are reasons for some differences. These reasons:

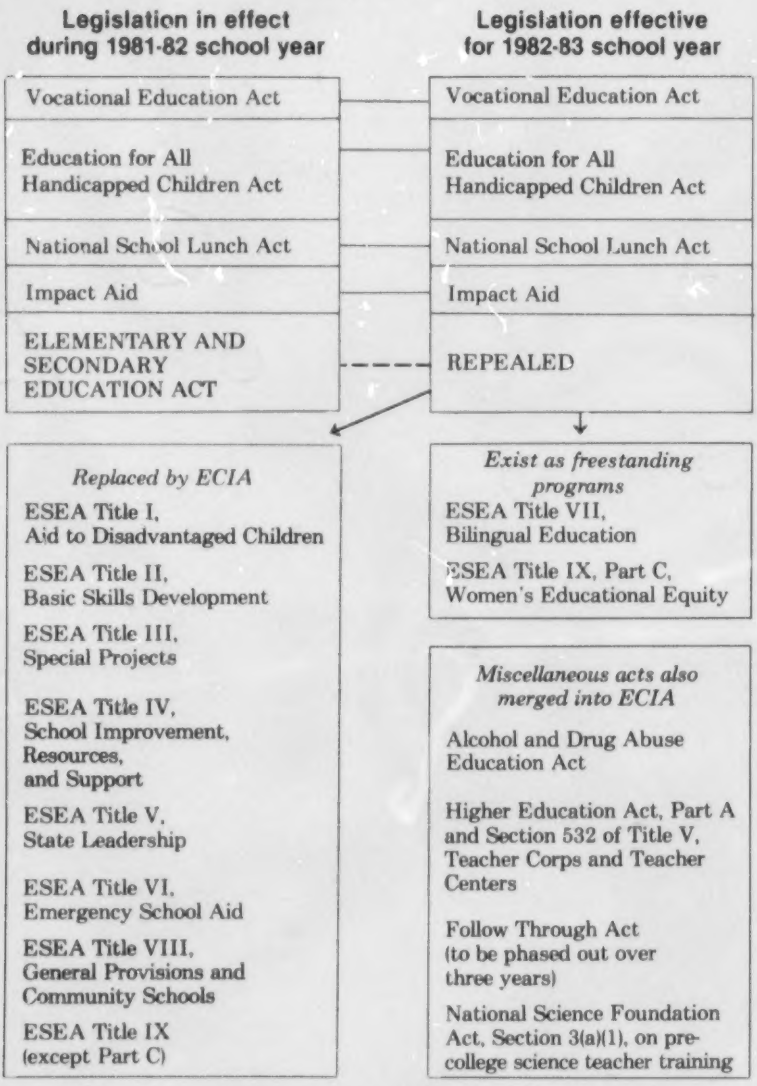
• *Regulations.* Because federal funds had to be accounted for and the legislative purposes carried out, a massive web of regulations gradually evolved. Today federal education regulations fill five full volumes with fine print. With state regulations added on top, local school administration assumed nightmarish dimensions. In fact, after 16 years, it appeared that many local administrators felt forced to put more effort into regulatory paperwork than the actual instructional programs authorized by Congress.

• *More federal laws.* Meanwhile Congress acted on complaints from other constituencies who believed local and state officials failed to meet their needs. More laws, based on ESEA's guiding principles, passed—on bilingual, vocational, special education. The accompanying regulations descended on local schools.

• *The cost.* Does this item need explanation? Education programs are a small percent of the federal budget, but any expenditure is significant when resources are scarce. For local schools, the cost of program administration was staggering. Local boards began to question whether receipt of federal funds was worth the cost.

• *Questionable effectiveness.* No one might have worried about any of this if it hadn't been for one thing. With few exceptions, evaluations of federal programs—by government or private concerns—failed to provide conclusive evidence that the federal dollars resulted in improved scholastic or vocational achievements

Chart I. How ECIA fits into the overall program of federal aid to elementary and secondary schools


Legislation in effect during 1981-82 school year
Legislation effective for 1982-83 school year
Vocational Education Act
Education for All Handicapped Children Act
National School Lunch Act
Impact Aid
ELEMENTARY AND SECONDARY EDUCATION ACT
Vocational Education Act
Education for All Handicapped Children Act
National School Lunch Act
Impact Aid
REPEALED
Replaced by ECIA
ESEA Title I, Aid to Disadvantaged Children
ESEA Title II, Basic Skills Development
ESEA Title III, Special Projects
ESEA Title IV, School Improvement, Resources, and Support
ESEA Title V, State Leadership
ESEA Title VI, Emergency School Aid
ESEA Title VIII, General Provisions and Community Schools
ESEA Title IX (except Part C)
Exist as freestanding programs
ESEA Title VII, Bilingual Education
ESEA Title IX, Part C, Women's Educational Equity
Miscellaneous acts also merged into ECIA
Alcohol and Drug Abuse Education Act
Higher Education Act, Part A and Section 532 of Title V, Teacher Corps and Teacher Centers
Follow Through Act (to be phased out over three years)
National Science Foundation Act, Section 3(a)(1), on pre-college science teacher training

for any target population. Evaluators placed the blame not on the programs themselves, but on the fact that program purposes were too narrowly defined and federal regulations were overly prescriptive. Local boards had altogether too little flexibility to operate effective programs.

• *Shift to the Right.* By 1980, enough Americans were convinced that more and bigger federal programs—on education or anything else—didn't make for a better life, that a conservative government swept into office.

It is within this context that a new administration scrutinized ESEA, the law that for 16 years has set the agenda for federal/state/local relationships. Most of the law was scrapped. (See Chart I, page 8.) In its place, Congress has established a framework for two new experiments in federal funding. Contained in the Education Consolidation and Improvement Act (that's ECIA, right?), these are:

• *The continuation of the largest categorical aid program from ESEA that got rave reviews from evaluators.* The experimental factor is that federal bureaucrats are prohibited in the law from adopting too many regulations this time around.

• *The consolidation of almost 30 ESEA discretionary programs, with the provision that grant awards be made on a state-developed formula rather than competitive basis.* The experimental factors are:

— every local board can get some money

— each board gets to decide on which of the 30 or so authorized purposes it wants to spend some or all of its money

— local boards, not the federal government, will be accountable for results.

Fewer strings. Restored faith in the notion that people closest to problems can best resolve them. Those are the chief ingredients of the new federal experiments. If the experiments succeed, ECIA may well set as firm an agenda for future federal/state/local relationships as ESEA did in the past.

Success will depend, first, on familiarity with the law.

General Summary of ECIA

That subtitle sounds deadly. But, there's no way around it: A summary view of the law is necessary, and coming up next. Here's how it's organized:

• *Chapter 1.* First comes what will forever more be known as "ECIA Chapter 1." This is the continuation of the one categorical program from ESEA. Oldtimers in the education jargon game will

recognize the program as the old ESEA Title I. They may also recognize the basic program framework, though there are changes, since this is the chapter that launches the federal experiment on deregulated categorical programs.

- *Chapter 2.* Second to follow is information on, yes, ECIA Chapter 2. Although jargon makers have not yet agreed completely on a catch phrase for this chapter, they seem to favor "education block grants," a phrase descriptive of the consolidation of the 30 or so, heretofore discretionary programs from the old ESEA. We'll follow their lead in the narrative below. It outlines the second experiment, the shift from federal to local discretion in how dollars will be spent.
- *Chapter 3.* This brief but important final chapter of ECIA details some general provisions governing the first two chapters—nitty gritty stuff like the kinds of regulations the feds may and may not write, what happens to states or local boards that fail to comply, whether other federal laws and regulations apply to ECIA implementation. Also included, some general provisions about all federal block grants, education and otherwise.

For each of the first two chapters, the summaries cover: broad purposes, effective dates (ESEA's repeal is not immediate), grant eligibility, authorized activities, application processes, and general provisions. If a thirst for detail remains unquenched by all that, the complete law (see Appendix) may suffice. Also see *this book's* second part for specifics on implementing the law.

ECIA Chapter 1: Financial Assistance to Meet Special Educational Needs of Disadvantaged Children

Aid to disadvantaged children, the erstwhile ESEA Title I, continues in ECIA as Chapter 1. And interestingly, the new aid program looks very similar to the Title I we started with in 1965, back before the steadily accumulating regulations and amendments made the program so difficult to administer. The new program is stripped of much of that burden. Also reduced is the amount of federal aid. (See Chart II, page 12.) What remains and what changes:

- *Overall purpose remains, with secondary purpose added.* Congressional intent is still to give states and local boards money to meet the special needs of children in low-income families. The added, explicitly stated purpose of the new law: to free schools from unproductive paperwork and overly prescriptive regulations.

• *Chapter 1 extends aid five years beyond Title I repeal.* The repeal of Title I is effective in 1982 on September 30. The effective dates of Chapter 1: October 1, 1982, to September 30, 1987.

• *Calculation of aid, however, will remain under Title I formula.* No change was written into Chapter 1, which instead continues the existing formula for counting eligible students. The formula will continue to be based on the 1970 census.

• *The various programs for which states and local boards may receive aid remain intact.* For states and local boards that now receive basic grants (aid based on number of low-income children, plus children receiving Aid For Dependent Children) and concentration grants (money beyond basic grant for districts whose disadvantaged students number more than 5,000 or 20% of total enrollment), the good news is those will carry on. And in case Congress ever feels wealthy again, more funds for local programs may be available under another program (special incentive grants to states to operate their own compensatory education programs) for which Congress has continued the authorization, but never yet made an appropriation. Continued state-operated programs: those for migrant, handicapped, neglected and delinquent children.

• *Authorized program activities are the same.* That is, the target of funds is still the instructional needs of disadvantaged children. Money may be spent to plan those programs or to pay for: school equipment, instructional materials, teachers, counselors, aides, special bonuses to teachers, teacher training, and even school construction.

• *State still responsible for statewide administration; local boards for planning local programs.* No specific changes are made in Chapter 1 in this regard, but. . .

• *Many local administrative requirements are discontinued.* Gone are Title I's local program requirements on basic and concentration grants. Some new requirements, however, appear in Chapter 1's application process and general provisions (see below).

• *Some old state administrative requirements out; some new in.* Everything states had to do to administer programs for migrant, handicapped, neglected and delinquent children stays. Eliminated is all state paperwork related to: state applications to the federal government; state approval of local applications; a prohibition against states adopting rules that conflicted with federal rules; technical assistance to local boards; monitoring requirements; state complaint resolution; audit and audit resolution procedures; state monitoring plans, reports, and recordkeeping. Although not

replaced, some of these state requirements will continue to have force under general federal audit and program evaluation procedures.

• *And states get a smaller percentage of funds to do their job.* Funds for state administration are reduced from 1.5 to 1 percent of a state's allocation. A ceiling is also placed on the percentage of the federal allocation the state may use for state-operated programs. The ceiling, 14.6 percent, applies only to the first three years of Chapter 1's effective life.

Chart II. How ECIA funding compares with

Program	1981 Appropriation before Reagan Recissions	1981 Appropriation with Reagan Recissions
Elementary/Secondary Consolidation Simplified ESEA Title I	$3,514.8	$3,104.3
Block Grant	NA	NA
Impact Aid	790.0	756.6
Emergency School Aid (ESEA, VII)		
Education for Handicapped: State Grants (P.L. 94-142)	922.0	874.4
Child Nutrition	3,469.1	3,579.0
Vocational Education (total program)	909.3	784.1
Bilingual Education	179.8	161.5
National Institute of Education (NIE)	74.1	65.6

[1] "Appropriation" figures in this chart refer to actual funds already set aside by Congress; "authorization" clues the reader to the fact that no funds have yet been set aside, and refers only to the upper limit on funds Congress may set aside when it passes a separate appropriation bill.

[2] The Reconciliation Act changed authorization levels. The level of funding for each of these programs has yet to be established by the Appropriations Committee.

[3] The authorization funds each of the programs in the block grant separately.

• *Local boards continue to apply for their share, but the process changes.* What remains of a state's allocation after states receive their share "off the top" is available to local boards that make successful application to the state. Success is guaranteed if:

— the application offers a three-year plan (annual updates permitted) for grant activities

— it provides assurances that the board will be attentive to serving the target population (including disadvantaged youth enrolled in private schools) in programs that are based on an-

that of other federal education programs[1]

1982 Authorization[2]	1983 Authorization	1984 Authorization
$3,480.0	$3,480.0	$3,480.0
(517.3)[3]	589.4	589.4
475.0	475.0	475.0
149.3	NA[4]	NA[4]
969.9	1,017.9	1,017.9
2,760.6	2,587.3	2,218.0
838.1	835.0	835.0
139.9	139.9	139.9
55.6	55.6	55.6

This figure is the total. The block grants are advance funded. This means that the FY 1982 funds will flow in the FY 1982-1983 school year, which is the same year the block grants are to be phased in. Consequently, there is some uncertainty whether Congress intended the first year of the block grant to be funded at $517.3 million or $589.4 million.

[4] The Emergency School Aid program has been cut from $149.3 to $33 million and consolidated into Chapter 2 of the new consolidated education Act.

nual assessment of their needs, promise reasonable assurance of progress, are designed in consultation with parents and teachers, and are regularly evaluated according to measures set by states or local boards.
—it assures the state the board will keep records the state needs to make its federal required fiscal audits and program evaulations.
A positive change: Consultation with parents on program design no longer need take the form of Title I's parent advisory councils.
A change in eligible schools and students: The target of Chapter 1 aid will be attendance areas of any or all schools having the *highest concentrations* of low-income students *or*, if concentrations are uniform throughout the school district, the disadvantaged children themselves, whatever school they attend. Under Title I, programs could be operated in attendance areas with lower concentrations, or for students that transferred mid-year to low-concentration schools because of a desegregation plan. Although these exceptions are not included in the new law, federal regulations may cover them.
• *Federal administrative requirements lessen.* Gone and not replaced are federal: approval of state applications; complaint resolution procedures; requirements for state policy manuals; enforcement reports; provisions for withholding funds; and all audit and evaluation requirements except for those generally required for federal programs.

• *Retained is slightly amended provision that federal dollars not supplant local funds.* As evidence of compliance with the "supplement/not supplant" provision, school boards no longer need to operate programs outside regular classrooms. Such "pull-out" programs won't be considered the only evidence of compliance.
• *Also simplified is the mechanism by which local boards can meet another continued federal requirement—comparability.* To receive funds, boards must still show that target schools, before the injection of federal dollars, have programs comparable to those in other schools districtwide. The new way to show that fact: Boards need only produce a districtwide salary schedule; a policy that ensures that personnel are assigned equitably among schools; and a policy that instructional materials are equitably distributed.
• *So there are fewer restrictions, but also fewer dollars.* There was more money *appropriated* for Title I in the 1980 fiscal year (before Reagan's tax cuts) than is *authorized* for Chapter 1 for any of the next three years. Congress has authorized that no more

than $3,480 million be spent on Chapter 1 in those years (down from the pre-cut $3,514.8 million 1981 appropriation.) As this handbook goes to press, there is no final word on the actual level of funding Congress will consider in its separate appropriations legislation.

- *Yet another federal provision—maintenance of effort—is relaxed.* Local boards still won't receive their total allocation unless they can show they're continuing to maintain district budgets of about the same amount year after year. However, to receive Chapter 1 funds one year, the district need only show that its per pupil (or aggregate) expenditure for the preceding year is not less than 90 percent what it was the year before. Under Title I, a 100 percent maintenance of local effort was required. Of import to boards in Massachusetts or California or other states facing taxpayer revolts: Although the law says this 90 percent provision may be waived if there's a national disaster or unforeseen decline in state financial resources, records of legislative conferences on Chapter 1 indicate that Congress would not consider tax initiatives or referenda an "unforeseen" decline or national disaster.

ECIA Chapter 2: Consolidation of Federal Programs for Elementary and Secondary Education

Chapter 2 can't be summarized like Chapter 1. Neat comparisons between new and old just don't work. Yes, block grants also replace existing legislation, but the new law is so radically different in concept that virtually every detail of program administration differs, too. It will be best to take this summary from ground zero and proceed to full understanding—a progression that parallels the kind of thinking Congress surely intended in enacting its law. The whole idea behind block grants, after all, is to raze the existing federal/state/local governance structure, which isn't working well, and to build up something that does.

What worked fairly well in the past was giving local communities enough flexibility to shape their own education destinies. Congress returns to that model with its block grants, placing good faith in the quality of local decisions and implicitly expressing confidence that past inequities won't be repeated. If the model works well, more federal education programs may soon be revamped similarly.

Here are the chief provisions of the block grants:

- *The law has two closely tied purposes.* One is to continue funding programs that improve the nation's school systems. Thirty or so previously separate programs are continued, all of which had

educational excellence as a goal. The second purpose is to establish a freer administrative structure for these programs, one that enhances the likelihood that the programs will succeed. Main ingredients of that structure:

—*Consolidation.* By combining the old programs, the law requires just one program procedure where many existed before.
—*Altogether, less paperwork and more flexibility.* Once program funds are distributed, the federal government wants to hear fewer details than ever before about what happens to its money. And the law, which shifts much administrative responsibility from federal to state governments, clearly says states are to reduce the reporting they require of local boards.
—*Local board responsibility.* The crux of the law is that local boards have sole discretion to decide how the money can best be spent to improve community schools. Not that this means anything goes, but the scope of authorized expenditures is vast.
—*Shift to formula funding.* Equally important to a full return of flexibility for local decision making is the new law's altered plan for distributing money. Under the old competitive grant structure, the U.S. Secretary of Education and states held the pursestrings, doling out funds only to those local boards that convinced their offices they had a project that meshed with federally and state-perceived education priorities. Under the new formula funding structure, priorities are set by local boards, and all boards are slated to receive funds based on objective criteria yet to be set by states.

• *The experiment will run five years, once it's funded.* Effective dates for education block grants: July 1, 1982, through September 30, 1987. The law says that no more than $589.4 million may be appropriated in any single year, but Congress has yet to consider a separate money measure. (Some programs will be phased in; see Chart III, page 18.)

• *Appropriated sums will be divided among many.* The Secretary of Education still retains a small portion (no more than six percent) with which he must fund a few remaining federal priorities and then may spend the rest at his discretion. Another one percent is reserved for U.S. territories. The remaining 93 percent goes to states, in direct proportion to each state's population of school-aged (5-17-year-old) youths. (See Chart IV, page 20.) To local boards, states must distribute at least 80 percent of their allocation, using the remainder for state administration or as discretionary program funds. Sorry, no word yet on precisely how the 80 percent gets spread around: Although the law says local

allocations will be based on relative enrollments in public and private schools, the law also says states may devise a formula so more money goes to districts with "high-cost" kids—those who are disadvantaged, or who live in sparsely populated or economically depressed urban and rural areas.

• *States won't just get money, must ask for it.* As in the past, states have to spearhead the movement to get federal funds into their territory. The new application process, however, tries to be less tedious. Application line items will include:

— designation of state education department as agency responsible for overall administration
— provision for consultation with a governor-appointed advisory committee on such topics as setting the state formula and deciding how the state allocation will be spent
— the actual plan for spending the state's allotment
— provision for making that plan public
— assurance the state will evaluate its program annually, starting in 1984
— general assurances that the state will carry out the law
— provision that the state will keep those records required for general federal fiscal audits and program evaluations.

Applications may cover up to three years, may be annually updated.

• *Nor will local boards receive money automatically.* But the application process is simplified for local boards, too. They need only sign papers that assure the state:

— how much of their allotment they intend to spend on which of the three broad areas into which the law groups its many authorized activities
— how much they'll be spending on private school students, whom the law says must be provided for equally in any program the district operates
— that the board will keep any records the state may need for its federally required audits and evaluations
— that the board will consult parents and school personnel in planning and carrying out programs.

As with states, local applications may cover no more than three years. Again, local boards have complete discretion on setting spending priorities.

• *That's right, public schools must provide equal programs for private school kids.* Nothing new here, really, though it may surprise anyone unfamiliar with the discretionary programs before their merger. The old programs also provided equally—and with

Chart III. How merged

This part of ECIA...	Replaces these programs:
Chapter 1 –Financial Assistance to Meet Special Educational Needs of Disadvantaged Children	ESEA Title I Basic Grants to Local Districts Special Grants State Administered Programs for Migratory Children, Handicapped Children, and Neglected and Delinquent Children State Administration
Chapter 2—Consolidation of Federal Programs for Elementary and Secondary Education	
Subchapter A—Basic Skills Development	ESEA Title II—Basic Skills Development (Except Part C, Sec. 231, Inexpensive Book Distribution Program
Subchapter B—Educational Improvement and Support Services	ESEA Title IV Part B—Instructional Materials and School Library Resources Part C—Improvement in Local Educational Practices Part D—Guidance, Counseling and Testing ESEA Title V—State Leadership ESEA Title VI—Emergency School Aid Precollege Science Teacher Training* (Sec. 3(a)(1) NSF Act of 1950) Teacher Corps (Part A, HEA) Teacher Centers (Sec. 532, HEA)

* Separate FY 1982; consolidated FY 1983.

programs fit into ECIA

This part of ECIA...	Replaces these programs:
Subchapter C—Special Projects	ESEA Title III—Special Projects Metric Education Arts in Education Preschool Partnership Programs Consumer Education Youth Employment Law-Related Education Environmental Education Health Education Correction Education Biomedical Sciences Population Education ESEA Title VIII—Community Schools ESEA Title IX (except for Part C) Gifted and Talented Children Educational Proficiency Standards Safe Schools Program Ethnic Heritage Program Career Education Incentive Act Follow Through Program (Part B, Title VI, Economic Opportunity Act of 1964)**
Subchapter D—Secretary's Discretionary Funds	Part K—Dissemination of Information ESEA Title III National Diffusion Network Program Part C—Inexpensive Book Distribution Program (ESEA Title II) Part C—Arts in Education (ESEA Title III-programs of national significance only) Alcohol and Drug Abuse Education Act
Chapter 3—General Provisions	ESEA Title VIII—General Provisions

** Phased-in over a three-year period; act repealed effective October 1, 1984.

Chart IV. How ECIA Chapter II funds

State	Total	Local Share	State Share
Alabama	$ 9,425,000	$ 7,540,000	$ 1,885,000
Alaska	2,768,000	2,215,000	554,000
Arizona	5,915,000	4,732,000	1,183,000
Arkansas	5,286,000	4,229,000	1,057,000
California	51,617,000	41,294,000	10,323,000
Colorado	6,511,000	5,209,000	1,302,000
Connecticut	7,416,000	5,933,000	1,483,000
Delaware	2,768,000	2,215,000	554,000
Dist. of Columbia	2,768,000	2,215,000	554,000
Florida	18,552,000	14,842,000	3,710,000
Georgia	13,023,000	10,418,000	2,605,000
Hawaii	2,768,000	2,215,000	554,000
Idaho	2,768,000	2,215,000	554,000
Illinois	27,624,000	22,099,000	5,525,000
Indiana	13,597,000	10,877,000	2,719,000
Iowa	7,107,000	5,686,000	1,421,000
Kansas	5,397,000	4,317,000	1,079,000
Kentucky	8,641,000	6,913,000	1,728,000
Louisiana	10,727,000	8,582,000	2,145,000
Maine	2,737,000	2,190,000	547,000
Maryland	10,286,000	8,229,000	2,057,000
Massachusetts	13,685,000	10,948,000	2,737,000
Michigan	23,695,000	18,956,000	4,739,000
Minnesota	10,087,000	8,070,000	2,017,000
Mississippi	6,589,000	5,271,000	1,318,000
Missouri	11,467,000	9,173,000	2,293,000
Montana	2,768,000	2,215,000	554,000

few snags—for students enrolled in private schools. The success of that arrangement is why states must use public *and* private school enrollments as the foundation for their block grant formulae. If state law prohibits such arrangements or a local board fails to make them, federal or state governments may do so, reducing allocations proportionately.

• *State receipt of funds also depends on two familiar federal aid provisions—maintenance of effort and supplement/not supplant.*

will be allocated among states*

State	Total	Local Share	State Share
Nebraska	3,797,000	3,037,000	759,000
Nevada	2,768,000	2,215,000	554,000
New Hampshire	2,768,000	2,215,000	554,000
New Jersey	17,658,000	14,127,000	3,532,000
New Mexico	3,289,000	2,631,000	658,000
New York	41,905,000	33,524,000	8,381,000
North Carolina	13,663,000	10,930,000	2,733,000
North Dakota	2,768,000	2,215,000	554,000
Ohio	26,609,000	21,287,000	5,322,000
Oklahoma	6,622,000	5,297,000	1,324,000
Oregon	5,662,000	4,529,000	1,132,000
Pennsylvania	27,381,000	21,905,000	5,476,000
Puerto Rico	9,580,000	7,664,000	1,916,000
Rhode Island	2,768,000	2,215,000	554,000
South Carolina	7,527,000	6,021,000	1,505,000
South Dakota	2,768,000	2,215,000	554,000
Tennessee	10,496,000	8,396,000	2,099,000
Texas	32,844,000	26,275,000	6,569,000
Trust Territories	5,890,000	—	—
Utah	3,576,000	2,861,000	715,000
Vermont	2,768,000	2,215,000	554,000
Virginia	12,482,000	9,986,000	2,496,000
Washington	9,039,000	7,231,000	1,808,000
West Virginia	4,437,000	3,549,000	887,000
Wisconsin	11,721,000	9,377,000	2,344,000
Wyoming	2,768,000	2,215,000	554,000

* This chart is based on authorized, not appropriated funding levels.

With one exception, these provisions in ECIA Chapter 2 are the same as those in Chapter 1. In Chapter 1, each local board must demonstrate that it meets both; in Chapter 2, states must demonstrate that collectively all expenditures for public education —by both state and local governments—remain at appropriate levels.

• *And that's all there is to block grants—except for the laundry list of authorized activities.* The law groups these activities in

three main categories. Local boards may spend their allocation on any one or all of the activities, as states may do with their 20 percent of the state allocation. Further, they may carry out activities themselves or subcontract with other public or private organizations. The three groups:

—*Basic skills development.* Authorized activities for states and local boards are listed separately in this portion of the law. State-operated projects may take the form of:

- ☐ Research, demonstration projects, personnel training, teacher institutes, instructional materials development, technical assistance to local school districts, dissemination of information, assistance to state boards of education
- ☐ Projects in conjuction with local school programs that train parents or volunteers to help kids improve basic skills.

Local programs must have these elements:

- ☐ A systematic strategy for improving skills that includes assessing student needs, establishing learning goals and objectives, inservice training, testing and evaluation procedures, activities to help parents help their children at home, plans for building-level implementation
- ☐ A strategy for program planning that involves teachers and principals, and parents if practicable.

—*Support services.* Either states or local boards may spend money on:

- ☐ Library resources and instructional equipment for classrooms, as long as they consult with teachers and librarians
- ☐ Activities that improve local school practices, especially those related to serving kids with special needs
- ☐ Anything that helps isolated minorities—except busing
- ☐ Guidance counseling and testing, particularly for employment
- ☐ School management improvement projects
- ☐ Pre- and in-service training, especially that which helps teachers help disadvantaged kids
- ☐ Anything that helps kids in schools undergoing court-ordered desegregation, even drafting desegregation plans.

—*Special Projects.* Again, either states or local boards are authorized to carry out projects in this category. It includes:

- ☐ Metric ed
- ☐ Fine arts
- ☐ Consumer ed
- ☐ Career ed
- ☐ Preparation for employment
- ☐ Gifted programs
- ☐ Health ed
- ☐ Environmental ed
- ☐ Legal ed

☐ Using school facilities as community centers
☐ Introducing disadvantaged kids to biomedical career possibilities
☐ Academic or vocational programs for juvenile delinquents, youth offenders, adult criminal offenders
☐ Pre- and in-school partnership projects (part of the old Head-start-Follow Through program)
☐ Establishment of proficiency standards, and programs to help kids meet standards
☐ Ethnic heritage programs
☐ Certain training and advisory services formerly authorized by civil rights legislation.

General Provisions from ECIA Chapter 3 and Elsewhere

Now for some nuts and bolts that hold for both chapters 1 and 2. Answers are contained herein to such logical questions as, if new programs are so decentralized, will the federal government play any role at all? And, if we don't have to file many reports anymore, how will Uncle Sam know we're doing right by his money? As an added bonus, from the depths of the Omnibus Budget Reconciliation Act (the comprehensive law of which ECIA is just one part), we have dredged up, yes, some general provisions that apply to all federal block grant programs (education programs weren't the only ones consolidated). First, here's the scoop on Chapter 3 issues:

- *Federal government may issue some regulations.* The law permits regulations on three topics only:
  - —Those relating to duties specifically assigned the U.S. Secretary of Education in chapters 1 and 2
  - —Those necessary for fiscal accounting and making payments to states
  - —Those "deemed reasonably necessary" to ensure that grant recipients comply with the law.

  The law prohibits any federal regulations on program planning, development, implementation, and evaluation. No regulation will have the power of law for purposes of judicial review.
- *Federal government may withhold money if evidence of non-compliance proves accurate.* The law details a complete hearing procedure, including both administrative and judicial review, to

accommodate any complaints that may be filed against state recipients. The ultimate penalty, withholding of payments, will occur only when evidence of non-compliance is complete. Until then, in keeping with the American system of justice, states will be presumed innocent, presumed to have complied. This presumption underlies the elimination of so many of the previously required reports.

- *Certain other federal requirements no longer apply, others do.* Tucked away in some federal corner is the General Education Provision Act. Applicable to all federal education programs, it stipulates that state programs be monitored and state plans approved. Application of those sections is specifically lifted from ECIA. This is the law, however, that spells out general fiscal audit and program evaluation requirements, and those parts still apply.

- *Federal government may provide technical assistance.* That will be forthcoming, however, only upon request.

The following provisions are those applicable to all federal block grant programs. Details may be found in the appendix, which also includes the complete text of the appropriation chapter of the Omnibus Act.

- *States that receive block grants must report on their use.* These reports, though they are not subject to approval, must plan out general block grant goals and objectives, types of activities on which dollars will be spent, geographic areas served, categories of individuals served, and criteria and methods for funds distribution.
- *State evaluations also required, must be made public.* As part of the state report, beginning in 1983, an evaluation of how well goals are met must be made. The report is to be made public, and future dollars won't be forthcoming unless it is. Details on this and the following general provisions on block grants in the Omnibus Act may be found in the appendix.
- *State books will be audited every two years.* Federal funds have to be kept separate, but this is nothing new. Nor is the requirement that state records on block grants be available to the U.S. Comptroller General for any evaluations he wants to conduct.
- *Transition arrangements for moving from ESEA to ECIA are clarified.* Specifically, sometime in federal fiscal year 1982 (October 1, 1982, to September 30, 1983) states have to tell the federal government they're ready to make the switch. Until then this whole program isn't operational.

Reshaping the Governance Structure

The passage of ECIA heralds the passing of some cherished notions—that the country's resources are endless, that distant governments can solve all local problems. But it promises the return of others—that people can wisely manage limited resources, that locally controlled schools are most responsive to local education needs. To fulfill these promises, a new partnership must be forged among federal, state and local school governors. The law calls for it.

Well, it doesn't exactly call for a *new* partnership. It outlines a renewed trust in basic governance patterns that worked reasonably well in the past. Not that things will ever be—or should be—as they were before 1965. ECIA, remember, is only an experiment in phasing out overly restrictive federal involvement in education; the continued establishment and funding of federal education priorities has a definite place in assuring national strength.

Under ECIA's partnership, responsibility for education is to be divided up this way:

- *Federal role.* ECIA says the federal government will step back to, but not step behind the line it crossed with the passage of ESEA in 1965. It will continue to identify and fund (though at lesser amounts) projects in the national interest. But the role of federal administrators will change, from that of regulators and enforcers to providers of technical assistance.
- *State role.* Reasserted in ECIA is state responsibility for the operation of a uniform, free public school system. States, for example, have the task of working out an equitable formula for distributing block grant funds. And they receive dollars to fund statewide education priorities. The reduction in reporting requirements allows states, like the federal government, to put more effort into technical assistance and less into regulation.
- *Local role.* Finally, the great opportunity—and the heavy burden—of managing federal aid comes home to the local school board.

* * *

So the federal framework for action is set. From it, we know generally what's expected of everyone on the education team. All that remains is to sort out specifically what steps the law expects each player to take immediately. "Action step" checklists for everyone appear in the next chapter.

Part 2

ACTION STEPS FOR SCHOOL POLICY MAKERS AND ADMINISTRATORS

Already three months have flown by since the passage of ECIA. A mere nine months remain until the law becomes effective and dollars start to flow from federal coffers. What needs to be done? Lots. Specific tasks are listed below for:

- Local school boards
- Local school administrators
- State administrators
- Federal administrators

Tasks are listed separately for ECIA Chapters 1 and 2.

Although readers will want to focus chiefly on the jobs the law assigns them directly, a quick perusal of what everyone else will be doing can't hurt. In fact, it's essential. How each group carries out its tasks will impinge directly on how the other groups function. No group can work in isolation if the law's mission is to be completed successfully.

Action Checklists for Local School Policy Makers

A local school board's primary responsibility is, of course, setting policies. This responsibility is no different in carrying out ECIA, but it becomes much more important. As the law shifts program accountability from federal to local government, local policy makers must be doubly sure that the local framework for accountability is capable of withstanding the additional load. Policies provide that framework.

A comprehensive policy collection, regularly updated, is the ideal situation. Such a manual contains most of the broad, guiding principles administrators need to handle day-to-day operations. Policies tell generally *what* the board wants and *why*; they delegate to the superintendent responsibility for deciding the *how*, *who*, and *when*, and *where* of policy implementation.

No policy manual is ever complete. New circumstances always arise, requiring the revision of existing policies or the drafting of

new ones. The passage of ECIA is one such circumstance. To help local boards update or draft policies needed to carry out ECIA programs, we offer:

- Two complete checklists of policies pertinent to ECIA Chapters 1 and 2
- Five sample policies on selected checklist topics
- Information on where to get more sample policies.

Board Policy Checklist for ECIA Chapter 1

Not many policies need review by the board that wants to participate in Chapter 1 programs. The most important are:

☐ *Revenues from federal tax sources.* What's needed here is a general statement that the board will accept federal dollars for specific purposes—such as improving education opportunities for disadvantaged kids—and will comply with federal requirements.

☐ *Federal program administration.* Here, the board will state any special management structure it wants for Chapter 1 and other federal programs. For example, some boards operate federal programs independently of those funded by state or local dollars. Authority for such autonomous management would be granted in this policy. If the board decides to operate an autonomous program, many of the policies listed below may well be included in one rather detailed policy on Chapter 1 administration. If the board decides, on the other hand, to include Chapter 1 activities in regular classroom programs, the policy ideas that follow may be incorporated in general policies that govern all school programs.

There's an assumption behind these checklists

Conspicuous in its absence from both policy checklists is this: a policy on policy development. We assume most boards have one. Any board, however, that has managed to adopt or revise policies without a formal, written procedure on policy development needs one now. For help on that policy—or on any of those listed in these checklists—see the inside back cover of this handbook for details on NSBA policy services. Also described are other NSBA services that may help local boards and staff prepare to implement the new law.

Sample Chapter 1 Policy

STAFF ASSIGNMENTS

The best educational program for the children of the school district is provided when the professional staff of each school is balanced in terms of experience, competencies, and general background. That balance will be the major factor in filling all school vacancies. Criteria for selecting candidates shall include:

1. Qualifications of candidate that contribute to balance school where vacancy is posted
2. Mutual agreement of teacher and administration
3. Contributions candidate could make to students
4. Length of service of candidate in district, if any.

☐ *Administrative records and reports.* In this policy, the board will authorize the administration to keep any separate records and make any reports Chapter 1 requires. Accurate records will have great import under deregulated federal programs; although they will be used less as the basis for federal reports, boards must still retain evidence of program compliance and success, in case any complaints are filed against the board.

☐ *Fiscal guidelines.* Board policies on *budget* development and public hearings probably should accommodate the influx of federal dollars, be attuned to the federal fiscal year (October through September), and provide for public comment on federal aid programs. A separate *accounting system* for federal funds must be authorized for independent federal *audits.*

☐ *Relations with private schools.* Since shared services with private schools are required under the law, a policy also is required that sets out the boundaries of a public school's relationship with its private counterparts—within the limits of state law.

☐ *Programs for disadvantaged students.* What kind of program does the board want? What are its goals? Which children will be eligible? Will the federally funded program be integrated with any local programs, as Chapter 1 now permits?

☐ *Testing programs.* The board must authorize an annual needs assessment, the goal of which is to determine which children have which basic instructional needs. This information is to be used for program placement.

Sample Policy for Chapters 1 and 2

SHARED SERVICES WITH PRIVATE SCHOOLS

The board of education may agree to provide educational experiences for private school students when students are participating in federally funded programs or, in local programs, when:

1. Pupils are residents of the city.
2. A signed request is received from the pupil and his/her parent or guardian.
3. Space is available in specifically requested classes that are held during regular public school hours.
4. Foundation aids are received as a direct result of the pupil's attendance.
5. Shared time participation does not limit or detract from the instructional program for public school students.
6. Shared time participation is consistent with the school district's desegregation/integration efforts.
7. Costs of materials and supplies for shared time pupils are paid by the sending school.

Transportation may be provided for pupils participating in the shared time program. The non-public school taking advantage of shared time would be responsible for paying non-reimbursed costs of transportation.

Specific school assignments for shared time students will be determined by the area superintendent of the geographic area of the sending school.

☐ *Program evaluation.* Regular program evaluation is required by the law. What measures does the board want to set to determine if the program is succeeding? Student test scores? Dropout rates? Longitudinal studies?

☐ *Staff involvement in decision making.* The law also requires boards to establish a procedure for orderly involvement of staff in program planning and evaluation. What vehicle for involvement does the board wish? Advisory committees? Regular staff meetings?

☐ *Parental involvement in decision making.* Although Chapter 1 says ESEA's old Parent Advisory Councils no longer are required, does the board want to continue this method of meeting Chapter 1's requirement that parents somehow be involved in program planning? Would the board rather authorize some new methods?

☐ *Personnel policies.* Two are required by Chapter 1, as evidence that the board operates comparable programs in all of its schools without any federal help. These are: a districtwide salary schedule, and a policy ensuring that district staff are assigned equitably among schools.

☐ *Instructional materials.* The third policy required to demonstrate comparability among schools is one that assures that instructional materials are equitably distributed among all district schools.

Sample Chapter 2 Policy *

RELATIONS WITH STATE AGENCIES

Local boards of education and public schools are instruments of the state and, by state law, members of boards of education and school administrators are officers of the state as well as of the local school districts which they serve.

The relationship of the board of education and the state includes, but is not limited to:

1. State regulation of school organizational structure, plant and activities through the state constitutional provisions, state school laws, general state laws which have some bearing on school matters, and school rules and regulations promulgated at the state level which have the force of law. This includes safety, fire, engineering, health, and traffic codes which relate to schools in any way.
2. Control, advisory, or consultive functions exercised by the state board of education, state department of education, and the state superintendent of public instruction.
3. State certification of teachers and of educational institutions.
4. State financial support and control through allocation from state tax funds.
5. Record keeping and reporting, financial, child accounting according to state requirements.
6. State and federal school aid programs administered or coordinated through state agencies.
7. Indirect state and local relationships mediated through state universities and colleges.

The board directs the superintendent to work with state officials on all matters of mutual concern, to ensure that state and local responsibilities are satisfactorily met.

* Also relates to Chapter 1, but more important for ensuring successful implementation of Chapter 2.

*Sample Chapter 2 Policy**

DETERMINATION OF BUDGET PRIORITIES

The board of education realizes it is impossible to meet an infinite array of educational needs and desires with finite resources. The board believes it has a primary responsibility to its taxpayers to operate the school system so that expenditures do not exceed revenues.

Therefore, the superintendent of schools is hereby directed to formulate the annual budget within those parameters. The following criteria must be taken into consideration:

1. At all times all resources must be utilized to produce the most positive effect on the student's opportunity to gain a basic/general education in this school district.
2. The budget must be in accord with statutory and regulatory mandates as promulgated by the state legislature, the state education department, and the federal government. It should include state and federal, as well as local dollars.
3. The budget must be in harmony with the board of education's contracts with its employee groups.
4. The budget must be in accord with the requirements and regulations of the regional accreditation association.
5. The budget will provide for maintenance of school facilities, as funds allow.
6. The budget will provide for electives and extracurricular activities, as funds allow.

Board Policy Checklist for ECIA Chapter 2

Boards that wish to participate in the block grant program will need to review a number of the same policies listed for Chapter 1—only this time around, the review must keep block grant requirements in mind. In addition, other policy topics, unique to block grants—especially those authorizing participation in developing the state formula—need review. All of these are:

☐ *Revenues from federal tax sources.* A statement similar to that listed for Chapter 1 is required for block grants. One policy for both programs will do if a board elects to participate in both; the only difference would be an additional statement of purpose(s) for which the board will accept federal dollars. It is in this policy that the board would specify on which of the myriad block grant activities it elects to spend its allocation.

☐ *Federal program administration.* For block grants, too, the board has the option to establish an autonomous program or to integrate block grant activities (but not fiscal records) with regular school programs. This policy should state the board's decision in this regard. As with Chapter 1, if the board opts for an autonomous program, many of the policy topics below might best be place in one long, general policy on federal program administration. Otherwise, they might be incorporated into general school policies applicable to all school programs.

☐ *Administrative records and reports.* See note under identical listing in Chapter 1 checklist.

☐ *Fiscal guidelines.* See note under identical listing in Chapter 1 listing. Also, the board may want to review its policy on how budget priorities are determined. This policy lists the order in which the board, given limited resources, will fund each component of school operations, and will therefore be a useful tool in matching federal funds to local priorities. For example, if funding a basic instruction program is the board's number one priority, the board may well decide to spend federal funds on a basic skills improvement program.

☐ *Relations with private schools.* See identical listing in Chapter 1 checklist.

☐ *Relations with state agencies.* This policy should be among the first upon which the board takes action. Does the board want to influence the governor to name primarily local board representatives to the council? Does it want its own members or staff members on the governor's advisory council? Or wish merely to establish contact with council members to ensure that council decisions are something the board can live with? Does the board plan to take an active role in working with state education department officials on their duties under the new law, again to ensure that the outcomes are workable at the local level? A policy authorizing such activity is necessary.

☐ *Relations with federal education officials.* The board may also want to authorize staff to work directly with federal officials so that their duties under the law are workable at the local level. Although this and the preceding policy topic also apply to Chapter 1, we list them here because of their greater import on Chapter 2 implementation. It is the block grant program, after all that aims directly at restructuring local/state/federal relations—and shaping a new, workable relationship will require a strong, sustained relationship among these levels of government.

*Sample Chapter 2 Policy**

COMMUNITY INVOLVEMENT IN DECISION MAKING

The board believes the schools belong to the people whom they are created to serve. It therefore intends that all reasonable efforts should be exerted to identify the desires of the community and to be responsive, through its actions, to those desires. These are the two major ways in which the will of the community shall influence the development of board policies:

1. Board members themselves will remain mindful that they are elected to represent the people of the district.
2. All citizens of the district will be encouraged to express ideas, concerns, and judgments about school programs through such means as (a) written suggestions or proposals; (b) presentations at hearings; (c) responses to surveys made through interviews, written instruments or other means; (d) comments at meetings of the board; and (e) service on citizens advisory committees.

* This policy could also be used for Chapter 1, as replacement for Parent Advisory Councils.

☐ *Liaison with school boards associations.* Boards may elect to exercise indirect influence at the state or national level through membership in their state school boards association, or through direct affiliation with the National School Boards Association. (See inside back cover for information on NSBA's Direct Affiliate program.)

☐ *Community involvement in school decision making.* A strong liaison with the community also is necessary for block grant programs. Three reasons:

— Special interest groups that, under ESEA, lobbied for federal dollars in Washington, D.C., will, under ECIA, lobby in the local boardroom to influence the board to allocate block grant funds toward their particular interest

— Some authorized activities require that the board plan them in consultation with parents and various community groups

— The law permits boards to subcontract block grant projects to community groups.

To ensure that all this occurs in orderly fashion, policies are needed on involving the public in board meetings, establishing

community advisory councils, establishing sustaining ties with community groups, and purchasing services.

☐ *Staff involvement in decision making.* The law requires the board to consult with staff—including private school staff—on program planning and implementation. An orderly method for that involvement also should be the subject of policy.

☐ *Program authorization.* Once the board has determined how its allocation will be spent, a policy is needed to authorize staff to muster resources to carry it out. This policy—or policies, if the board plans to allocate its funds among several purposes—should spell out the board's goals for the program. The program may be any of the many authorized by block grants—from a basic skills improvement program to the purchase of instructional materials, from staff development to improved management practices, from metric education to ethnic heritage programs and desegregation plans.

☐ *Program planning and implementation.* What criteria does the board want to establish for program planning? How detailed should implementation plans be?

☐ *Program evaluation.* What measures of effectiveness should the board establish to gauge the success of its programs? How often will evaluations occur? Who should be involved?

Checklists for Local Administrators

The first big job for school superintendents will be to advise their boards on policy options. Then, once boards have adopted official guidelines for implementation of ECIA, administrative details can be worked out, regulations drafted, and assignments made.

To assist administrators in researching policy options, and establishing administrative procedures, we offer:

- Two checklists, one for ECIA Chapter 1 and one for Chapter 2
- Lists of tasks state and federal administrators will be working on
- Details on whom to contact for more information.

Local Administrator Checklist for ECIA Chapter 1

Here are the first steps an administrator will need to take to help his board decide whether and how to participate in ECIA Chapter 1:

☐ *Eligibility for participation.* Is the school district eligible for

receipt of Chapter 1 funds? Eligibility will continue to be based on the formula established under ESEA, that is, on a school district's percentage of low-income families. That figure will continue to be derived from the 1970 census. The task for administrators is to determine, then, whether their district is eligible for funds, and if so, how much federal aid they may anticipate. The use of the 1970 census means that migrations of low-income families after that date will not be reflected in aid calculations—a fact that will help some districts and hurt others. In the Sun Belt, for instance, population has steadily increased since 1970, but the percentage of low-income families there has decreased; Sun Belt districts will therefore receive more aid than they would if the 1980 census were used.

☐ *Attendance area eligibility.* Which schools within the district are eligible for funds under the new law's measure of "highest concentration" of disadvantaged kids? Administrators will need to determine their eligible schools. If the district receives state dollars for disadvantaged programs, federal dollars may be earmarked for schools unserved by the state program.

☐ *Federal program administration.* Should Chapter 1 programs be integrated in the regular school program, as the new law permits, or continue (as in the case with most ESEA Title I programs) to operate autonomously or semi-autonomously? Each

Need more information? ECIA experts stand by

No, we have no list of who in each state education office is tracking ECIA development, but we can recommend contacting key legislative experts at NSBA. These men know more about ECIA than anyone else in Washington, D.C.

- *August W. Steinhilber,* Associate NSBA Executive Director. Steinhilber, longtime head of NSBA's Office of Federal Relations, can tell you anything you want to know about any federal program.
- *Michael A. Resnick,* Assistant NSBA Executive Director. Resnick, an attorney who heads the Legislative Section of NSBA's Office of Federal Relations, spent many days on Capitol Hill ensuring that the final form of ECIA was salutory for local boards.

On Chapter 1

Meanwhile, things state and federal officials will be doing...

Tasks specifically assigned state and federal officials for implementation of Chapter 1 are listed below. Word is out that some states may be considering operating Chapter 1 programs in the same manner as they did ESEA Title I programs. Local administrators who believe this "business as usual" stance does not benefit local operations will want to take the initiative with state officials so that state procedures are workable locally.

- *Federal Chapter 1 tasks.* These include:
  - —Planning how to make payments to states, including procedures for advance funding and carrying over unobligated Title I funds
  - —Designing application procedure for states
  - —Clarifying which records states and local boards must keep for general federal fiscal audits and program evaluations
  - —Issuing any regulations assigned by the law, in keeping with overriding congressional intent that paperwork be reduced and in coordination with enforcers so there will be no contradiction between what regulation issuers and enforcers expect of grant recipients
  - —Planning any organizational changes necessitated by the reduction in federal regulatory requirements
  - —Establishing complaint resolution procedure authorized by general provisions of Chapter 3
  - —Establishing method for making payments directly to private schools in states where law prohibits local boards from sharing services.
- *State Chapter 1 tasks.* These include:
  - —Making application for state's allocation
  - —Designing application for local boards
  - —Determining how state will spend its portion of program dollars
  - —Setting standards for design, implementation, and evaluation of state-operated programs
  - —Planning any organizational changes required by reduced federal requirements and reduced funds for state administration
  - —Determining what records state and local boards need to maintain, and what reports they must make, to fulfill federal—and any additional state—requirements
  - —Working with federal officials on duties assigned them to ensure that those items are workable at the state level
  - —Establishing procedure for making payments directly to private schools located in public school districts that fail to include eligible private school students in programs.

administrator will have to answer this question in light of what seems best for his district. Factors to consider: possible staff reductions made possible by lessened administrative requirements; curriculum changes made possible by elimination of "pull-out" programs as only way to demonstrate compliance with "supplement/supplant" requirement; how other federal programs are administered within the district; whether size of program is sufficient to warrant separate staff, or whether the district's administrative team may handle operation.

State and federal relations. Administrators may well want to work with officials at other levels of government to ensure that tasks the law assigns *them* work at the local level. Of particular interest: formulation of regulations that reduce local paperwork, as law requires; design of application for funds that requires local districts to provide more assurances of compliance than detailed program reports; determination of which records districts, as a bare minimum, must maintain for general federal fiscal audits and program evaluations; any other duties assigned or assumed by state or federal administrators.

Liaison with professional associations. Administrators, like boards, may elect to influence state and federal officials through state and national associations—not only on tasks ECIA assigns higher levels of government, but also on any amendments to the law that administrators believe would make it more workable. Federal program managers may want to become more active in NSBA's unique organization that represents their special interests on Capitol Hill (see details on inside back cover).

Drafting program policies. Boards will be looking to administrators for advice on all policies listed in their Chapter 1 checklist. In addition to the three policies required for demonstration of "comparability," administrators will need to draft policy options on how parents and teachers will be involved in program planning, how needs assessments will be conducted, what goals programs should have, how programs will be implemented—from annual needs assessments through annual evaluations.

Drafting administrative regulations. Finally, when all of the above is done, it's the administrator's job to figure out who does what, when, and how.

Local Administrator Checklist for ECIA Chapter 2

Here are the first steps an administrator will need to take to help his board decide whether and how to participate in the ECIA block grant program:

☐ *Eligibility for participation.* The new law's shift from competitive to formula funding for all programs merged in the block grant program means that all districts are assured of receiving grant funds. The administrator's first task is to determine whether this means his district will get more or less federal aid under the new program. Districts that, under old laws, placed strong emphasis on winning competitive grants may well expect less money under the new law. Districts that did not pursue discretionary funds, on the other hand, can expect to receive new federal money, if they want it. Administrators can determine whether they "win or lose" by looking at Chart IV (page 20) and calculating the percentage of the total dollars for local boards for which their district is eligible. Just divide the figure by the district's school age population (5- to 17-year olds enrolled in both public and private schools). The resulting figure will only be an estimate because: (1) the chart is based on authorized, not appropriated, aid figures, and (2) states have the option of establishing a formula to send greater sums to districts with higher concentrations of "high-cost" kids.

☐ *Federal program administration.* Should block grant administration be integrated in the regular administrative structure or stand alone among district operations? Districts that have had large grantsmanship operations may want to look at those programs to see whether a separate staff for federal programs remains necessary. Keeping a separate operation but shifting its emphasis from grantsmanship (proposal writing) to program administration (program planning and evaluation) is one option. Another: shifting responsibility for federal program administration to the district management team.

☐ *Additional funding sources.* In districts that expect to lose federal dollars under the merged programs, administrators may want to start looking elsewhere for means to continue programs that have local prioritiy. Possibilities: grants from other public and private sources; cooperative arrangements with other public and private institutions; local fund raising; cooperative arrangements with local businesses.

Chapter 2 Tasks

Meanwhile, in state and federal offices...

Below are tasks specifically assigned state and federal officials responsible for block grant administration. If these tasks are to be carried out in a manner that works for local districts, local administrators will want to work with their state and federal counterparts.

- *Federal Chapter 2 tasks.* These include:
  - —Planning how to make payments to states, including procedures for advance funding and carrying over unobligated funds from merged programs
  - —Designing application procedure for states
  - —Clarifying which records states and local boards must keep for general federal fiscal audits and program evaluations
  - —Drafting and issuing permitted regulations
  - —Planning organizational changes required by reduction in requirements and consolidation
  - —Establishing procedure for complaint resolution
  - —Establishing procedure for review of each state's formula for allocating dollars to local districts
  - —Determining which, if any, other federal regulations apply to block grants
  - —Establishing a program of technical assistance for grant recipients who request same
  - —Determining how federal discretionary funds will be allocated and administered.
- *State Chapter 2 tasks.* These include:
  - —Making application for state's allocation
  - —Designing application for local boards
  - —Determining whether any new state legislation is needed to accept block grant funds
  - —Setting up governor's advisory council to advise on: establishing funding formula; planning for how state program funds will be allocated; designing, implementing, and evaluating state programs; making state plans and program reports public
  - —Planning any organizational changes required by consolidation and reduction in regulatory requirements
  - —Determining what records and reports are required of state and local boards to meet federal—and any additional state—requirements
  - —Working with federal officials on duties assigned them to ensure that those items work at state level.

☐ *State and federal relations.* As under Chapter 1, it will be advantageous for local administrators to work with officials at higher levels of government to assure that *their* duties under law are carried out in a manner that works locally. Of particular concern: formulation of regulations; design of application procedures; determination of what records and reports will be required; determination of funding formula; membership or representation on governor's advisory council. Administrators may suggest to their boards, as noted in Chapter 1 checklist, that local staff deal directly with state and federal officials on these issues, or indirectly through professional associations. Whichever approach is selected, the important thing is that local officials take the initiative and let state and federal officials know what will and will not work locally—rather than, out of force of habit, waiting for answers and directives from above.

☐ *State and federal staff changes.* Consolidation of the 30 or so old programs may well bring about massive changes in organizational structure at state and federal levels. Local administrators will need to find out who's in charge. (See box, page 36.)

☐ *Program planning.* How will dollars be allocated among any or all authorized purposes? A vehicle for orderly community involvement in allocating federal dollars must be proposed to the board. Plans must include consultation with public and private school staff and parents.

☐ *Drafting program policies.* Boards will rely on administrators to draft policy options on all aspects of program design, implementation, and evaluation—as well as on other topics in this checklist.

☐ *Administrative regulations.* Then, details of administration must be set out in a form that leaves no question about who is responsible for the what's and when's and how's of program implementation.

* * *

As this handbook goes to press, action on Capitol Hill goes on. Briefings on the law by the U.S. Department of Education begin this month. Federal regulations are being drafted, in keeping with a federal timetable to publish final regulations by May, 1982. An appropriations bill, upon which action is expected before the end of this calendar year, is before Congress. And, already, amendments to

the Education Consolidation and Improvement Act are being drafted by organizations representing education's interests in Washington.

So this final page is not the end, only a temporary surcease, in NSBA's continuing publication of news on the latest Washington developments.

To be continued. . .

APPENDIX

Education Consolidation and Improvement Act of 1981 *

Chapter 1—Financial Assistance to Meet Special Education Needs of Disadvantaged Children

SEC. 552 DECLARATION OF POLICY

The Congress declares it to be the policy of the United States to continue to provide financial assistance to State and local educational agencies to meet the special needs of educationally deprived children, on the basis of entitlements calculated under title I of the Elementary and Secondary Education Act of 1965, but to do so in a manner which will eliminate burdensome, unnecessary, and unproductive paperwork and free the schools of unnecessary Federal supervision, direction, and control. Further, the Congress recognizes the special educational needs of children of low-income families, and that concentrations of such children in local educational agencies adversely affect their ability to provide educational programs which will meet the needs of such children. The Congress also finds that Federal assistance for this purpose will be more effective if education officials, principals, teachers, and supporting personnel are freed from overly prescriptive regulations and administrative burdens which are not necessary for fiscal accountability and make no contribution to the instructional program

SEC. 553. DURATION OF ASSISTANCE

During the period beginning October 1, 1982, and ending September 30, 1987, the Secretary shall, in accordance with the provisions of this subtitle, make payments to State educational agencies for grants made on the basis of entitlements created under title I of the Elementary and Secondary Education Act of 1965 and calculated in accordance with provisions of that title in effect on September 30, 1982.

SEC. 554. APPLICABILITY OF TITLE I PROVISIONS OF LAW

(a) *PROGRAM ELIGIBILITY.*—Except as otherwise provided in this subtitle, the Secretary shall make payments based upon the amount of, and eligibility for, grants as determined under the

* *This act is so titled in Section 551, Subtitle D-Elementary and Secondary Education Block Grant, the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35.*

following provisions of title I of the Elementary and Secondary Education Act in effect on September 30, 1982:

(1) Part A—"Programs Operated by Local Education Agencies":
  (A) Subpart 1—"Basic Grants"; and
  (B) Subpart 2—"Special Grants".
(2) Part B—"Programs Operated by State Agencies":
  (A) Subpart 1—"Programs for Migratory Children";
  (B) Subpart 2—"Programs for Handicapped Children";
  (C) Subpart 3—"Programs for Neglected and Delinquent Children"; and
  (D) Subpart 4—"General Provisions for State Operated Programs".

(b) *ADMINISTRATIVE PROVISIONS.*—The Secretary, in making the payments and determinations specified in subsection (a), shall continue to use the following provisions of title I of the Elementary and Secondary Education Acts as in effect on September 30, 1982:

(1) Part E—"Payments":
  (A) Section 191—"Payment Methods";
  (B) Section 192—"Amount of Payments to Local Educational Agencies";
  (C) Section 193—"Adjustments Where Necessitated by Appropriations"; and
  (D) Section 194—"Payments for State Administration", subject to subsection (d) of this section.
(2) Part F—"General Provisions":
  (A) Section 197—"Limitation on Grants to Puerto Rico"; and
  (B) Section 198—"Definitions" and conforming amendments to other Acts, except that only those definitions applicable to this subtitle shall be used.

(c) *APPLICABILITY RULE.*—The provisions of title I of the Elementary and Secondary Education Act of 1965 which are not specifically made applicable by this chapter shall not be applicable to programs authorized under this chapter.

(d) *AMENDMENT*—Section 194(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "1.5 per centum" and inserting in lieu thereof "1 per centum".

SEC. 555. AUTHORIZED PROGRAMS

(a) *GENERAL.*—Each State and local educational agency shall use the payments under this chapter for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of educationally deprived children.

(b) *PROGRAM DESIGN.*—State agency programs shall be designed to serve those categories of children counted for eligibility for grants under section 554(a)(2) in accordance with the requirements of this chapter.

(c) *PROGRAM DESCRIPTION.*—A local education agency may use funds received under this chapter only for programs and projects which are designed to meet the special educational needs of educationally deprived children identified in accordance with section 556(b)(2), and which are included in an application for assistance approved by the State educational agency. Such programs and projects may include the acquisition of equipment and instructional materials, employment of special instructional and counseling and guidance personnel, employment and training of teacher aides, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas, the training of teachers, the construction, where necessary, of school facilities, other expenditures authorized under title I of the Elementary and Secondary Education Act as in effect September 30, 1982, and planning for such programs and projects.

(d) *RECORDS AND INFORMATION.*—Each State educational agency shall keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter).

SEC. 556. APPROVAL OF APPLICATIONS

(a) *APPLICATION BY LOCAL EDUCATIONAL AGENCY.*—A local educational agency may receive a grant under this chapter for any fiscal year if it has on file with the State educational agency an application which describes the programs and projects to be conducted with such assistance for a period of not more than three years, and such application has been approved by the State educational agency.

(b) *APPLICATION ASSURANCES.*—The application described in subsection (a) shall be approved if it provides assurances satisfactory to the State educational agency that the local educational agency will keep such records and provide such information to the State educational agency as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the State agency under this chapter), and that the programs and projects described—

(1) (A) are conducted in attendance areas of such agency having the highest concentrations of low-income children;
(B) are located in all attendance areas of an agency which has a uniformly high concentration of such children; or

(C) are designed to utilize part of the available funds for services which promise to provide significant help for all such children served by such agency;

(2) are based upon an annual assessment of educational needs which identifies educationally deprived children in all eligible attendance areas, permits selection of those children who have the greatest need for special assistance, and determines the needs of participating children with sufficient specificity to ensure concentration on those needs;

(3) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served and are designed and implemented in consultation with parents and teachers of such children;

(4) will be evaluated in terms of their effectiveness in achieving the goals set for them, and that such evaluations shall include objective measurements of educational achievement in basic skills and a determination of whether improved performance is sustained over a period of more than one year; and

(5) make provision for services to educationally deprived children attending private elementary and secondary schools in accordance with section 557.

SEC. 557

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

(a) *GENERAL REQUIREMENTS.*—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of sections 555(c), 556(b)(2), (3), and (4), and 558(b). Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

(b) *BYPASS PROVISION.*—

(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall waive such requirements, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

(2) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

(3) (A) When the Secretary arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocations under this chapter.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of such services.

(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

(4) (A) The Secretary shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why such action should not be taken.

(B) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may

thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(c) Any bypass determination by the Secretary under title I of the Elementary and Secondary Education Act of 1965 prior to the effective date of this chapter shall remain in effect to the extent consistent with the purposes of this chapter.

SEC. 558 GENERAL PROVISIONS

(a) *MAINTENANCE OF EFFORT.*—

(1) Except as provided in paragraph (2), a local educational agency may receive funds under this chapter for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(2) The State educational agency shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 per centum of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The State educational agency may waive, for one fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

(b) *FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.*—A local educational agency may use funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds

that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this chapter, and in no case may such funds be so used as to supplant such funds from such non-Federal sources. In order to demonstrate compliance with this subsection a local education agency shall not be required to provide services under this chapter outside the regular classroom or school program.

(c) *COMPARABILITY OF SERVICES.*—

(1) A local educational agency may receive funds under this chapter only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this chapter. Where all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable in each project area.

(2) A local educational agency shall be deemed to have met the requirements of paragraph (1) if it has filed with the State educational agency a written assurance that it has established—

(A) a districtwide salary schedule;

(B) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

(C) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

Unpredictable changes in student enrollment or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of services.

(d) *EXCLUSION OF SPECIAL STATE AND LOCAL PROGRAM FUNDS.*—For the purposes of determining compliance with the requirements of subsections (b) and (c), a local educational agency may exclude State and local funds expended for carrying out special programs to meet the educational needs of educationally deprived children, if such programs are consistent with the purposes of this chapter.

(e) *ALLOCATION OF FUNDS IN CERTAIN STATES.*—In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency is authorized to make allocations of basic grants and special incentive grants directly to local educational agencies without regard to counties, if such allocations were made during fiscal year 1982, except that (1) precisely the same factors are used to determine the amount of such grants to counties, and (2) a local educational

agency dissatisfied with such determination is afforded an opportunity for a hearing on the matter by the State educational agency.

Chapter 2—Consolidation Of Federal Programs For Elementary And Secondary Education

SEC. 561. STATEMENT OF PURPOSE

(a) It is the purpose of this chapter to consolidate the program authorizations contained in—

(1) titles II, III, IV, V, VI, VIII, and IX (except part C) of the Elementary and Secondary Education Act of 1965;

(2) the Alcohol and Drug Abuse Education Act;

(3) part A and section 532 of title V of the Higher Education Act of 1965;

(4) the Follow Through Act (on a phased basis);

(5) section 3(a)(1) of the National Science Foundation Act of 1950 relating to precollege science teacher training; and

(6) the Career Education Incentive Act;

into a single authorization of grants to States for the same purposes set forth in the provisions of law specified in this sentence, but to be used in accordance with the educational needs and priorities of State and local educational agencies as determined by such agencies. It is the further purpose and intent of Congress to financially assist State and local educational agencies to improve elementary and secondary education (including preschool education) for children attending both public and private schools, and to do so in a manner designed to greatly reduce the enormous administrative and paperwork burden imposed on schools at the expense of their ability to educate children.

(b) The basic responsibility for the administration of funds made available under this chapter is in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under the chapter shall be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents.

SEC. 562. AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE

(a) There are authorized to be appropriated such sums as may be necessary for fiscal year 1982 and each of the five succeeding fiscal years to carry out the provisions of this chapter.

(b) During the period beginning July 1, 1982, and ending September 30, 1987, the Secretary shall, in accordance with the provisions of this subtitle, make payments to State educational agencies for the purposes of this chapter.

(c) Funds available under previously authorized programs shall be available for the purpose of such payments in accordance with section 514(b)(2) of the Omnibus Education Reconciliation Act of 1981.

SEC. 563. ALLOTMENTS TO STATES

(a) From the sums appropriated to carry out this chapter in any fiscal year, the Secretary shall reserve not to exceed 1 per centum for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs. The Secretary shall reserve an additional amount, not to exceed 6 per centum of the sums appropriated, to carry out the purposes of section 583. From the remainder of such sums the Secretary shall allot to each State in an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to 0.5 per centum of such remainder.

(b) For the purposes of this section:

(1) The term "school-age population" means the population aged five through seventeen.

(2) The term "States" includes the fifty States, the District of Columbia, and Puerto Rico.

SEC. 564. STATE APPLICATIONS

(a) Any State which desires to receive grants under this chapter shall file an application with the Secretary which—

(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this chapter;

(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including persons representative of—

(A) public and private elementary and secondary schoolchildren;

(B) classroom teachers;

(C) parents of elementary and secondary schoolchildren;

(D) local boards of education;

(E) local and regional school administrators (including principals and superintendents);

(F) institutions of higher education; and

(G) the State legislature;

to advise the State educational agency on the allocation among authorized functions of funds (not to exceed 20 per centum of the amount of the State's allotment) reserved for State use under section 565(a), on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this chapter;

(3) sets forth the planned allocation of funds reserved for State use under section 565(a) among subchapters A, B, and C of this chapter and among the authorized programs and projects which are to be implemented, and the allocation of such funds required to implement section 586, including administrative costs of carrying out the responsibilities of the State educational agency under this chapter;

(4) provides for timely public notice and public dissemination of the information provided pursuant to paragraphs (2) and (3);

(5) beginning with fiscal year 1984, provides for an annual evaluation of the effectiveness of programs assisted under this chapter, which shall include comments of the advisory committee, and shall be made available to the public; and

(6) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter); and

(7) contains assurances that there is compliance with the specific requirements of this chapter.

(b) An application filed by the State under subsection (a) shall be for a period not to exceed three fiscal years, and may be amended annually as may be necessary to reflect changes without filing a new application.

SEC. 565. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES

(a) From the sums made available each year under section 563, the State educational agency shall distribute not less than 80 per centum to local educational agencies within such State according to the relative enrollments in public and nonpublic schools within the school district of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

(1) children from low-income families,

(2) children living in economically depressed urban and rural areas, and

(3) children living in sparsely populated areas.

(b) The Secretary shall approve criteria suggested by the State educational agency for adjusting allocations under subsection (a) if such criteria are reasonably calculated to produce an equitable distribution of funds with reference to the factors set forth in subsection (a).

(c) From the funds paid to it pursuant to sections 563 and 564 during each fiscal year, the State educational agency shall distribute to each local educational agency which has submitted an application as required in section 566 the amount of its allocation as determined under subsection (a).

SEC. 566. LOCAL APPLICATIONS

(a) A local educational agency may receive its allocation of funds under this chapter for any year in which it has on file with the State educational agency an application which—

(1) sets forth the planned allocation of funds among subchapters A, B, and C of this chapter and for the programs authorized by such subchapters which it intends to support, including the allocation of such funds required to implement section 586;

(2) provides assurances of compliance with provisions of this chapter relating to such programs, including the participation of children enrolled in private, nonprofit schools in accordance with section 586;

(3) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this chapter; and

(4) in the allocation of funds for programs authorized by this chapter, and in the design, planning, and implementation of such programs, provides for systematic consultation with

parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups as may be deemed appropriate by the local educational agency.

(b) An application filed by a local educational agency under subsection (a) shall be for a period not to exceed three fiscal years, may provide for the allocation of funds among programs and purposes authorized by this chapter for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(c) Each local educational agency shall have complete discretion, subject only to the provisions of this chapter, in determining how funds the agency receives under this section shall be divided among the purposes of this chapter in accordance with the application submitted under this section.

Subchapter A—Basic Skills Development

SEC. 571. USE OF FUNDS

Funds allocated for use under this subchapter shall be used by State and local educational agencies to develop and implement a comprehensive and coordinated program designed to improve elementary and secondary school instruction in the basic skills of reading, mathematics, and written and oral communication, as formerly authorized by title II of the Elementary and Secondary Education Act of 1965, relating to basic skills improvement, including the special mathematics program as formerly authorized by section 232 of such title.

SEC. 572. STATE LEADERSHIP AND SUPPORT SERVICES

(a) In order to achieve the purposes of this subchapter, State educational agencies may use funds reserved for State programs to make grants to and enter into contracts with local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions—

(1) to carry out planning, research and development, demonstration projects, training of leadership personnel, short term and regular session teacher training institutes; and

(2) for the development of instructional materials, the dissemination of information, and technical assistance to local educational agencies.

Each State educational agency may also use such funds for technical assistance and training for State boards of education.

(b) State educational agencies may support activities designed to enlist the assistance of parents and volunteers working with schools to improve the performance of children in the basic skills. Such activities may include—

(1) the development and dissemination of materials that parents may use in the home to improve their children's performance in those skills; and

(2) voluntary training activities for parents to encourage and assist them to develop their children in developing basic skills;

except that such activities conducted in local areas shall be conducted with the approval of and in conjuction with programs of local educational agencies.

SEC. 573. SCHOOL LEVEL PROGRAMS

(a) In planning for the utilization of funds it allocates for this chapter (from its allotment under section 565) a local educational agency shall provide for the participation of children enrolled in private elementary and secondary schools (and of teachers in such schools) in accordance with section 586. Such plans shall be developed in conjuction with and involve continuing consultation with teachers and principals in such district. Such planning shall include a systematic strategy for improving basic skills instruction for all children which provides for planning and implementation at the school building level, involving teachers, administrators, and (to the extent practicable) parents, and utilizing all available resources in a comprehensive program. The programs shall include—

(1) diagnostic assessment to identify the needs of all children in the school;

(2) the establishment of learning goals and objectives for children and for the school;

(3) to the extent practicable, pre-service and in-service training and development programs for teachers, administrators, teacher aides and other support personnel, designed to improve instruction in the basic skills;

(4) activities designed to enlist the support and participation of parents to aid in the instruction of their children; and

(5) procedures for testing students and for evaluation of the effectiveness of programs for maintaining a continuity of effort for individual children.

(b) The programs described in subsection (a) may include such areawide or districtwide activities as learning centers accessible to students and parents, demonstration and training programs for parents, and other activities designed to promote more effective instruction in the basic skills.

Subchapter B—Educational Improvement and Support Services

SEC. 576. STATEMENT OF PURPOSE

It is the purpose of this subchapter to permit State and local educational agencies to use Federal funds (directly, and through grants to or contracts with educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activites from among the full range of programs and projects formerly authorized under title IV, relating to educational improvement, resources, and support, title V, relating to State leadership, title VI, relating to emergency school aid, of the Elementary and Secondary Education Act of 1965, section 3(a)(1) of the National Science Foundation Act of 1950, relating to precollege science teacher training, and part A and section 532 of title V of the Higher Education Act of 1965, relating to the Teacher Corps and teacher centers, in accordance with the planned allocation of funds set forth in the applications under sections 564 and 566, in conformity with the other requirements of this chapter.

SEC. 577. AUTHORIZED ACTIVITIES

Programs and projects authorized under this subchapter include—

(1) the acquisition and utilization—

(A) of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools which shall be used for instructional purposes only, and

(B) of instructional equipment and material suitable for use in providing education in academic subjects for use by children and teachers in elementary and secondary schools which shall be used for instructional purposes only,

which take into account the needs of children in both public and private schools based upon periodic consultation with teachers, librarians, media specialists, and private school officials;

(2) the development of programs designed to improve local educational practices in elementary and secondary schools, and particularly activities designed to address educational problems such as the education of children with special needs (educationally deprived children, gifted and talented children, including children in private schools);

(3) programs designed to assist local educational agencies, upon their request, to more effectively address educational problems caused by the isolation or concentration of minority group children in certain schools if such assistance is not conditioned upon any requirement that a local educational agency which assigns students to schools on the basis of geographic attendance areas adopt any other method of student assignment, and that such assistance is not made available for the transportation of students or teachers or for the acquisition of equipment for such transportation;

(4) comprehensive guidance, counseling, and testing programs in elementary and secondary schools and State and local support services necessary for the effective implementation and evaluation of such programs (including those designed to help prepare students for employment);

(5) programs and projects to improve the planning, management and implementation of educational programs, including fiscal management, by both State and local educational agencies, and the cooperation of such agencies with other public agencies;

(6) programs and projects to assist in teacher training and in-service staff development, particularly to better prepare both new and in-service personnel to deal with contemporary teaching and learning requirements and to provide assistance in the teaching and learning of educationally deprived students; and

(7) programs and projects to assist local educational agencies to meet the needs of children in schools undergoing desegregation and to assist such agencies to develop and implement plans for desegregation in the schools of such agencies.

Subchapter C—Special Projects

SEC. 581. STATEMENT OF PURPOSE

It is the purpose of this subchapter to permit State and local educational agencies to use Federal funds (directly and through grants to or contracts with educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activites from among the full range of programs and projects formerly authorized under title III, relating to special projects, title VIII, relating to community schools, and title IX (except part C), relating to gifted and talented children, educational proficiency standards, safe schools program, and ethnic heritage program, of the Elementary and Secondary Education Act of 1965, the Career Education Incentive Act, and part B of title V of the Economic Opportunity Act of 1964, relating to Follow Through programs, in accordance with the planned allocation of funds set forth in the applications under sections 564 and 566, in conformity with the other requirements of this chapter.

SEC. 582. AUTHORIZED ACTIVITIES

Programs and projects authorized under this subchapter include—

(1) special projects (as may be determined to be desirable by the State or local educational agencies) in such areas as—

(A) preparation of students to use metric weights and measurements when such use is needed;

(B) emphasis on the arts as an integral part of the curriculum;

(C) (i) in-school partnership programs in which the parents of school-age children participate to enhance the education and personal development of the children, previously authorized by part B of the Headstart-Follow Through Act;

(ii) preschool partnership programs in which the schools work with parents of preschool children in cooperation with programs funded under the Headstart-Follow Through Act;

(D) consumer education;

(E) preparation for employment, the relationship between basic academic skill development and work experience, and coordination with youth employment programs carried out under the Comprehensive Employment Training Act;

(F) career education previously authorized by the Career Education Incentive Act;

(G) environmental education, health education, education about legal institutions and the American system of law and its underlying principles, and studies on population and the effects of population changes;

(H) academic and vocational education of juvenile delinquents, youth offenders, and adult criminal offenders; and

(I) programs to introduce disadvantaged secondary school students to the possibilities of careers in the biomedical and medical sciences, and to encourage, motivate, and assist them in the pursuit of such careers;

(2) the use of public education facilities as community centers operated by a local education agency in conjunction with other local governmental agencies and community organizations and groups to provide educational, recreational, health care, cultural, and other related community and human services for the community served in accordance with the needs, interests, and concerns of the community and the agreement and conditions of the governing board of the local educational agency; and

(3) additional programs, including—

(A) special programs to identify, encourage, and meet the special educational needs of children who give evidence of high performance capability in areas such as intellectual, creative, artistic, leadership capacity, or specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities;

(B) establishment of educational proficiency standards for reading, writing, mathematics, or other subjects, the administration of examinations to measure the proficiency of students, and implementation of programs (coordinated with those under subchapter A of this chapter) designed to assist students in achieving levels of proficiency compatible with established standards;

(C) programs designed to promote safety in the schools and to reduce the incidence of crime and vandalism in the school environment;

(D) planning, developing, and implementing ethnic heritage studies programs to provide all persons with an opportunity to learn about and appreciate the unique contributions to the American national heritage made by the various ethnic groups, and to enable students better to understand their own cultural heritage as well as the cultural heritage of others; and

(E) programs involving training and advisory services under title IV of the Civil Rights Act of 1964.

Subchapter D—Secretary's Discretionary Funds

SEC. 583. DISCRETIONARY PROGRAM AUTHORIZED

(a) From the sums reserved by the Secretary pursuant to the second sentence of section 563(a) the Secretary is authorized to carry out directly or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which—

(1) provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children, and others served by this subtitle, and for assessing the needs of such individuals, including programs and projects formerly authorized by section 376 of the Elementary and Secondary Education Act of 1965 and programs and projects formerly funded under the "National Diffusion Network" program;

(2) carry out research and demonstrations related to the purposes of this subtitle;

(3) are designed to improve the training of teachers and other instructional personnel needed to carry out the purposes of this subtitle; or

(4) are designed to assist State and local educational agencies in the implementation of programs under this subtitle.

(b) From the funds reserved for the purposes of this section, the Secretary shall first fund—

(1) the Inexpensive Book Distribution Program (as carried out through "Reading is Fundamental") as formerly authorized by part C of title II of the Elementary and Secondary Education Act of 1965,

(2) the programs of national significance in the "Arts in Education" Program as formerly authorized by part C of title III of such Act, and

(3) programs in alcohol and drug abuse education as formerly authorized by the Alcohol and Drug Abuse Education Act,

at least in amounts necessary to sustain the activities described in this sentence at the level of operations during fiscal year 1981, and then utilize the remainder of such funds for the other authorized activities described in subsection (a).

Subchapter E—General Provisions

SEC. 585 MAINTENANCE OF EFFORT: FEDERAL FUNDS SUPPLEMENTARY

(a) (1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this chapter for any fiscal year if the Secretary finds that either the combined fiscal effort per student of the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(2) The Secretary shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 per centum of both the fiscal effort per student and the aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The Secretary may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional or uncontrollable cir-

cumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(b) A State or local educational agency may use and allocate funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this chapter, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

(c) The Secretary is specifically authorized to issue regulations to enforce the provisions of this section.

SEC. 586. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

(a) (1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this chapter or which serves the area in which a program or project assisted under this chapter is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for State use under section 565, such agency after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this chapter.

(2) If no program or project is carried out under subsection (a)(1) of this section in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this chapter.

(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this chapter by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this chapter for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this chapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c) (1) The control of funds provided under this chapter and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this chapter shall not be commingled with State or local funds.

(d) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e) (1) If the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrange-

ments which shall be subject to the requirements of this section.

(2) Pending final resolution of any investigation of complaining that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimated would be necessary to pay the cost of those services.

(f) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer by any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

(g) When the Secretary arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this chapter.

(h) (1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show why that action should not be taken.

(2) If a State or local agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based this action, as provided in section 2112 of title 28, United States Code.

(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon

certiorari or certification as provided in section 1254 of title 28, United States Code.

(i) Any bypass determination by the Secretary under titles II through VI and VIII and IX of the Elementary and Secondary Education Act of 1965 prior to the effective date of this chapter shall remain in effect to the extent consistent with the purposes of this chapter.

SEC. 587. REPEALS

(a) Effective October 1, 1982, the provisions of—

(1) titles II, III, IV, V, VI, VIII, and IX (except part C) of the Elementary and Secondary Education Act of 1965;

(2) part A and section 532 of title V of the Higher Education Act of 1965;

(3) the Alcohol and Drug Abuse Education Act; and

(4) the Career Education Incentive Act; are repealed.

(b) Effective October 1, 1984, subchapter C of chapter 8 of subtitle A of title VI of this Act, relating to Follow Through programs is repealed.

Chapter 3—General Provisions

SEC. 591. FEDERAL REGULATIONS

(a) The Secretary is authorized to issue regulations—

(1) relating to the discharge of duties specifically assigned to the Secretary under this subtitle;

(2) relating to proper fiscal accounting for funds appropriated under this subtitle and the method of making payments authorized under this subtitle; and

(3) which are deemed necessary to reasonably insure that there is compliance with the specific requirements and assurances required by this subtitle.

(b) In all other matters relating to the details of planning, developing, implementing, and evaluating programs and projects by State and local educational agencies the Secretary shall not issue regulations, but may consult with appropriate State, local, and private educational agencies and, upon request, provide technical assistance, information, and suggested guidelines designed to promote the development and implementation of effective instructional programs and to otherwise assist in carrying out the purposes of this subtitle.

(c) Regulations issued pursuant to this subtitle shall not be the standing of a Federal statute for the purpose of judicial review.

SEC. 592. WITHHOLDING OF PAYMENTS

(a) Whenever the Secretary after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurance required to be given or conditions required to be met under this subtitle the Secretary shall notify such agency of these findings and that beginning sixty days after the date of such notification, further payments will not be made to the State under this subtitle, or affected chapter thereof (or, in his discretion, that the State educational agency shall reduce or terminate further payments under the subtitle or affected chapter thereof, to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under the subtitle or affected chapter thereof, or (2) payments by the State agencies not affected by the failure, or (3) payments to particular local educational agencies shall be reduced, as the case may be.

(b) Upon submission to a State of a notice under subsection (a) that the Secretary is withholding payments, the Secretary shall take such action as may be necessary to bring his action to the attention of the public within the State.

SEC. 593. JUDICIAL REVIEW

(a) If any State is dissatisfied with the Secretary's action under section 592 (a), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) A State educational agency shall be presumed to have complied with this subtitle, but the findings of fact by the Secretary, if supported by the weight of evidence, may overcome such presumption. The court may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in court the record of the further proceedings.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

SEC. 594. AVAILABILITY OF APPROPRIATIONS

Notwithstanding any other provisions of law, unless expressly in limitation of this section, funds appropriated in any fiscal year to carry out activities under this subtitle shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the succeeding fiscal year.

SEC. 595. DEFINITIONS

(a) Except as otherwise provided herein as used in this subtitle—

(1) the term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools;

(4) the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

(5) the term "parent" includes a legal guardian or other person standing in loco parentis;

(6) the term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade twelve;

(7) the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade twelve;

(8) the term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school

facilities; and the inspection and supervision of the construction of school facilities;

(9) the term "equipment" includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials; and

(10) the term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilties intended primarily for exhibitions for which admission is to be charged to the general public.

(b) Any term used in provisions referenced by section 554 and not defined in this section shall have the same meaning as that term was given in title I of the Elementary and Secondary Education Act of 1965 in effect prior to October 1, 1981.

SEC. 596. APPLICATION OF OTHER LAWS

(a) Sections 434, 435, and 436 of the General Education Provisions Act (relating to "State Educational Agency Monitoring and Agency Application") shall not apply to programs authorized under this subtitle except to the extent that they relate to fiscal control and fund accounting procedures (including the title to property acquired with Federal funds), and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this subtitle.

(b) Section 412 of the General Education Provisions Act shall apply to any funds appropriated for any fiscal year pursuant to this subtitle.

General Provisions for All Block Grant Programs*

SEC. 1741. DISTRIBUTION OF BLOCK GRANT FUNDS

(a) To help assure that (1) block grant funds are allocated for programs of special importance to meet the needs of local governments, their residents, and other eligible entities, and (2) all eligible urban and rural local governments, their residents, and other eligible entities are treated fairly in the distribution of such funds, each State which receives block grant funds under this Act shall comply with the requirements of this chapter, to the extent that such funds may be used at the discretion of the State, as described in subsection (b)(1)(B).

(b) For purposes of this chapter—

(1) block grant funds are funds which are received for a program—

(A) which provides for the direct allocation of funds to States only, except for the allocation of funds for use by the Federal agency administering the program; and

(B) which provides funds that may be used at the discretion of the State, in whole or in part, for the purpose of continuing to support activities funded, immediately before the date of the enactment of this Act, under programs the authorizations of which are discontinued by this Act and which were funded, immediately before such date of the enactment, by Federal Government allocations to units of local government or other eligible entities, both; and

(2) "State" includes the District of Columbia and any territory or possession of the United States.

SEC. 1742. REPORTS ON PROPOSED USE OF FUNDS: PUBLIC HEARINGS

(a) Each State shall prepare a report on the proposed use of block grant funds received by that State, including (1) a statement of goals and objectives, (2) information on the types of activities to be supported, geographic areas to be served, and categories or characteristics of individuals to be served, and (3) the criteria and method established for the distribution of the funds, including details on how the distribution of funds will be targeted on the basis of need to achieve the purposes of the block grant funds.

** This is the text of Chapter 2, Title XVII of the Omnibus Budget Reconciliation Act of 1981. P.L. 97-35.*

Beginning in the fiscal year 1983, the report required by this subsection shall include a description of how the State has met the goals, objectives, and needs in the use of funds for the previous fiscal year as identified in the report prepared pursuant to this subsection for that previous fiscal year.

(b) The report prepared by a State pursuant to subsection (a), and any changes in such report, shall be made public within the State on a timely basis and in such manner as to facilitate comments from interested local governments and persons.

(c) No State may receive block grant funds for any fiscal year until the State has conducted a public hearing, after adequate public notice, on the use and distribution of the funds proposed by the State as set forth in the report prepared pursuant to subsection (a) with respect to that fiscal year.

SEC. 1743. TRANSITION PROVISION

(a) In the fiscal year 1982 only, each State shall certify to the responsible Federal agency that it is in compliance with section 1742 and that it is prepared to use all or part of available block grant funds. Such certifications shall be submitted to the responsible Federal agency prior to the beginning of the first quarter of the fiscal year 1982 or at least 30 days before the beginning of any other quarter of that fiscal year. For purposes of this section, the quarters for the fiscal year 1982 shall commence on October 1, January 1, April 1, and July 1 of the fiscal year 1982.

(b) Except as otherwise provided in this Act, until such time as the responsible Federal agency receives a certification from a State pursuant to subsection (a), such agency shall distribute the block grant funds involved for programs to which the funds relate and which are discontinued by this Act as referred to in section 1741(b)(1)(B).

SEC. 1744. ACCESS TO RECORDS BY COMPTROLLER GENERAL

For the purpose of evaluating and reviewing the use of block grant funds, consolidated assistance, or other grant programs established or provided for by this Act, the Comptroller General shall have access to any books, accounts, records, correspondence, or other documents that are related to such funds, assistance, or programs, and that are in the possession, custody, or control of States, political subdivisions thereof, or any of the grantees of such States or political subdivisions.

SEC. 1745. STATE AUDITING REQUIREMENTS

(a) Each State shall conduct financial and compliance audits of any block grant funds which the State receives under this Act and any funds which the State receives under any consolidated assistance program established or provided for by this Act.

(b) Any audit required by subsection (a) shall be conducted with respect to the 2-year period beginning on October 1, 1981, and with respect to each 2-year period thereafter.

(c) Any audit required by subsection (a) shall, insofar as is practicable, be conducted in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, activities, and functions.

(d) The audit of funds by a State required by subsection (a) shall be conducted in lieu of any other financial and compliance audit of the same funds which the State is required to conduct under any other provision of this Act, unless such other provision, by explicit reference to this section, otherwise provides.

About NSBA...

The National School Boards Association is a not-for-profit organization whose primary mission is the general advancement of education through the unique American tradition of local citizen control. In this way, education policy is decided by school board members who are directly accountable to the community.

NSBA promotes high quality education through services to state school boards associations and local school districts. It represents school board interests before Congress, federal education agencies, and other national regulatory bodies.

Active Members of NSBA include the 49 state school boards associations, the Hawaii State Board of Education, plus the boards of education of the District of Columbia and the Virgin Islands. Founded in 1940, NSBA represents approximately 95,000 of the nation's school board members who, in turn, govern the schools attended by 97% of all U.S. public school children.

Here are other NSBA services to help you

• *The Forum of Federal Program Coordinators.* Managing federal programs takes specialized skills and up-to-date knowledge of federal legislation and regulations. Program managers from across the country get both—and more—through membership in the Forum. Membership includes: regular briefings on existing and forthcoming congressional and federal agency action, copies of NSBA studies of federal programs, a directory of federal program managers in other school districts, opportunity to shape NSBA testimony on behalf of local boards before Congress. Two conferences annually introduce members to key federal officials.

• *The Direct Affiliate Program.* Local boards can also gain a direct link to federal officials through NSBA's Direct Affiliate program. Participation (conditional upon a board's membership in its state school boards association) includes: representation of local interests before Congress, federal courts, regulatory agencies; a fortnightly newspaper filled with education news from Washington; penetrating research reports on such key education issues as minimum competency and student discipline; significant discounts on other NSBA services.

• *Policy services.* NSBA offers a variety of services to help boards update existing policy manuals or develop entire policy collections from scratch. For do-it-yourselfers there's the Educational Policies Services, which provides a comprehensive policy codification system, two-volume reference manual of sample policies from districts nationwide, two monthly newsletters on policy issues and implementation, access to NSBA's national clearinghouse of local board policies. The newsletters and clearinghouse are available separately. For those who want help codifying, updating or developing a manual—based on existing local practice and documents—there's a complete consulting service. Policy workshops also are conducted twice each year.

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For more details on these services, contact NSBA at address on inside front cover.